

UNITED STATES DISTRICT COURT

for the

Southern District of New York

United States of America)

v.)

Hippolito Collante)

Date of Previous Judgment: October 15, 2006)

(Use Date of Last Amended Judgment if Applicable))

Case No: 92 Cr. 550 (RJH)

USM No: 31905-054

Defendant's Attorney

Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion,

IT IS ORDERED that the motion is:

☒ DENIED. ☐ GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of _____ months is **reduced to** _____.

I. COURT DETERMINATION OF GUIDELINE RANGE (Prior to Any Departures)

Previous Offense Level: _____

Amended Offense Level: _____

Criminal History Category: _____

Criminal History Category: _____

Previous Guideline Range: _____ to _____ months

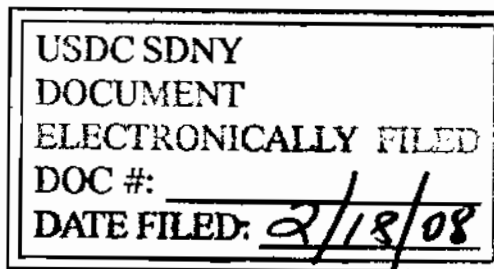
Amended Guideline Range: _____ to _____ months

II. SENTENCE RELATIVE TO AMENDED GUIDELINE RANGE

- ☐ The reduced sentence is within the amended guideline range.
☐ The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.
☐ Other (explain): _____

III. ADDITIONAL COMMENTS

SEE ATTACHED



Except as provided above, all provisions of the judgment dated 10/15/06 shall remain in effect.

IT IS SO ORDERED.

Order Date: 2/9/09

[Signature]
Judge's signature

Effective Date: _____

(if different from order date)

Richard J. Holwell
Printed name and title

USWJ
2/9/09

III. ADDITIONAL COMMENTS

The amendment to the guidelines does not authorize the Court to modify a sentence which reflects a *statutory* mandatory minimum. *United States v. Williams*, – F. 3d –, 2009 WL 32564, at *3 (2d Cir. Jan. 7, 2009) (“Once the mandatory minimum applied, Lewis’s sentence was no longer ‘based on a sentencing range that has subsequently been lowered by the Sentencing Commission.’”) Therefore, the request for resentencing is denied.

A handwritten signature, possibly reading "A", is written in black ink.